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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/599,371      | 06/22/2000  | John D. Nelson       | 101992-200          | 8796             |

27267 7590 12/26/2001

WIGGIN & DANA LLP  
ATTENTION: PATENT DOCKETING  
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NEW HAVEN, CT 06508-1832

EXAMINER

LEVY, NEIL S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1616

DATE MAILED: 12/26/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1616

Applicant's election without traverse of Group I, species of zinc, pyrrhione alkali metal salts in Paper No. 8 is acknowledged.

Claims 4, 6, 7, 12-32, and 35-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Abbreviations should be spelled out at first appearance in claims (EDTA, EGTA).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1-3, 5, 8-11, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Kappock et al 5518774.

Art Unit: 1616

Zinc sources to pyrithione complexes are 1:10 to 10:1 (col. 3), thus within the claimed antimicrobial range (col. 7, results). Titania is also used (Table 1).

The formation of the zinc source is not of patentable consideration, as no criticality has been shown by applicant to the antimicrobial efficacy of electrolytically generated zinc.

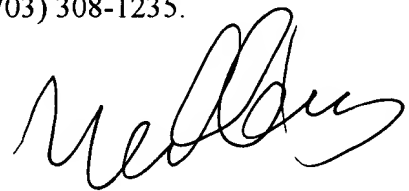
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday to Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy:mv

December 4, 2001



NEIL S. LEVY  
PRIMARY EXAMINER